

## 1.4 Assignment of Judges.

### (a) District Court.

- (1) **Dockets.** As determined by the majority of the active district judges, the court maintains various dockets generally defined by geography or the nature of the case. Not all judges participate in each docket. A judge who participates in a docket may not necessarily receive cases in the same proportion as other participating judges. The chief judge, after consulting with the other active district judges, determines the judges selected to participate in one or more of these dockets and the proportion of participation.
- (2) **Assignment Method.** Unless these rules state or the chief judge directs otherwise, the clerk randomly assigns cases from each docket to the participating judges. However, under the chief judge’s direction after consulting with the other active district judges, a magistrate judge may be paired with a district judge on a nonrandom basis when the magistrate judge is not the trial judge. See NECivR 73.1 (assignment of civil cases to magistrate judges for trial). In interpreting this rule, the chief judge’s decision is final.
- (3) **Reassignments.**
  - (A) **District Judges.** The chief judge, with the assigned district judge’s consent, may reassign a case to another district judge due to personal disqualification of the assigned district judge or other good cause. If the assigned district judge is disabled and unable to consent to reassignment, the chief judge may reassign the case without the district judge’s consent. If the chief judge is disqualified or disabled, the reassignment authority passes to the active status district judge then available and next senior in service. If all active status district judges are disqualified or disabled, the reassignment authority passes to the senior status district judge then available and most senior in service. If all district judges are disqualified or incapacitated, and if a visiting judge has been designated for service in this district, the reassignment authority passes to the visiting judge.
  - (B) **Magistrate Judges.** The assigned district judge may reassign the reference on the case from one magistrate judge to another magistrate judge due to the assigned magistrate

judge’s personal disqualification or other good cause.

- (C) **Visiting Judges.** The assigned district judge or the chief judge, with the consent of the assigned district judge, may reassign a case to a visiting district judge designated for service in this district. If the assigned district judge is disabled and unable to consent to reassignment, the chief judge may reassign a case without the district judge’s consent.

(4) **Related Cases.**

- (A) **Notification.** Attorneys of record must notify the court that a case is or may be related to another pending or closed case in this court. Failure to notify the court may result in sanctions on attorneys and parties. Accordingly,

- (i) on the “open unassigned case” screen, the filer should enter “USDC-NE in the “other court” name field and the number of the related case in the “other court number” field; and
- (ii) after filing, an attorney of record who learns that a case is or may be related to another pending or closed case in this court must immediately inform the clerk and the chief judge by electronically filing a notice of related cases.

- (B) **Assignments.** If a case is noted as related on the cover sheet or on the case opening screen when filed, the clerk assigns it to the district judge who handled the earlier pending or closed case. If the court or the clerk learns after filing that cases are or may be related, the chief judge must be informed as soon as possible. If the chief judge determines the cases are related, the higher numbered case(s) are reassigned to the district judge with the lowest numbered case unless good cause exists for not ordering the reassignment.

- (C) **“Related” Cases Defined.**

- (i) Open or closed criminal cases are related when some or all of the charges arise from the same general set of events. A new criminal case is related to a previous open or closed criminal case involving the same

defendant when the new case arose during a period of incarceration, supervised release, probation or pretrial release based on or in the course of the previous case. A superseding indictment or information is related to the superseded indictment or information.

- (ii) Open or closed bankruptcy appeals are related when they involve some or all of the same property or the same debtor(s).
- (iii) Open or closed civil cases are related when they involve some or all of the same issues of fact, arise out of the same transaction, or involve the validity or infringement of the same patent.
- (iv) Civil cases are not related to criminal cases.

**(5) The Nebraska Docket.**

**(A) Applicable Cases.** Except for cases challenging the death penalty under 28 U.S.C. § 2254 and cases in which North Platte is designated as the place of trial, civil cases are placed on one docket called the “Nebraska docket” if:

- (i) the State of Nebraska or any of its agencies are named defendants in the original complaint;
- (ii) a named defendant in the original complaint is being sued for acts or omissions that allegedly occurred while the defendant was allegedly an employee of the State of Nebraska or one of its agencies;
- (iii) the plaintiff is the United States of America;
- (iv) the plaintiff is pro se when the case is filed;
- (v) the plaintiff is a prisoner in state custody when the case is filed;
- (vi) the case is a social security appeal; or
- (vii) the case is a bankruptcy appeal.

**(B) Application Notes.**

- (i) An “agency” of the State of Nebraska does not include local political subdivisions such as cities or counties, natural resource districts, public power districts, or similar entities.
- (ii) Motions filed under 28 U.S.C. § 2255 are not civil cases for purposes of this rule.
- (iii) If the clerk does not know if a case is properly placed in the Nebraska docket, the clerk may ask the chief judge, whose decision is final.

**(C) Assignment of Judges.** Under Nebraska General Rule 1.4(a)(2), cases placed on the Nebraska docket are randomly assigned to and equitably divided among the district judges regardless of their duty station and the designated place of trial. The magistrate judge normally paired with the assigned district judge is also assigned to the case. If the assigned district judge is not normally paired with a magistrate judge, the clerk randomly assigns an Omaha magistrate judge to an Omaha case and a Lincoln magistrate judge to a Lincoln case.

**(D) Place of Trial.** The district judge handling a Nebraska docket case may try the case in Omaha or Lincoln, regardless of the place designated for trial, after considering the convenience of the parties, lawyers, witnesses, and other related matters.

**(E) Jury Selection.** All juries in Nebraska docket cases are selected from the jury pool used where the case is tried.

**(6) Death Penalty Cases.** The chief judge assigns cases brought under 28 U.S.C. § 2254 that challenge the death penalty.

**(A) Location of Proceedings.** The assigned district judge may decide the location of all proceedings, regardless of the location designated for trial.

**(B) Stay of Execution.** If the assigned district judge is absent or unavailable to consider a motion for a stay of execution, any district judge may rule on the motion.

- (7) **Challenges.** All motions challenging the operation or seeking avoidance or restraint of this rule must be made to the chief judge or, if the chief judge is disqualified or disabled, to the district judge then available and next senior in service.
- (8) **Sanctions.** No person may: (a) reveal the sequence of district or magistrate judges' names within a calendar category or any rotation randomly determined; (b) assign any case other than as stated in this rule or ordered by the court; or (c) directly or indirectly cause, or attempt to cause, any person to (i) reveal the sequence of district or magistrate judges' names within a calendar category or rotation randomly determined, or (ii) assign any cases other than as stated in this rule or ordered by the court. The court will sanction any person violating this provision with criminal contempt.

**(b) Bankruptcy Court.**

- (1) **Assignment Method.** From time to time, the bankruptcy judges adopt a general policy concerning case assignment for implementation by the clerk. The general policy varies on a case-by-case basis at the judges' discretion based on a number of factors including the judges' relative workload, conflicts of interest, and recusals. When a petition is filed, the bankruptcy court clerk assigns the case to a judge.
- (2) **Subsequent Filings.** After the bankruptcy court assigns a case, subsequent documents must be filed in the bankruptcy court clerk's office in the assigned judge's location.
- (3) **Place of Hearings.** The clerk and the assigned judge determine the location of hearings in a bankruptcy case.
- (4) **Reassignments.** If the assigned bankruptcy judge is disabled and unable to consent to the reassignment of a case, the chief bankruptcy judge may reassign the case without consent. If the chief bankruptcy judge is disqualified or disabled, the reassignment authority passes to the next senior bankruptcy judge. If all bankruptcy judges are disqualified or disabled, the reassignment authority passes to the chief district judge.